

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DONALD J. TRUMP FOR PRESIDENT, INC., <i>et al.</i> ,	:	
	:	NO. 20-CV-02078-MWB
Plaintiffs,	:	
	:	
v.	:	
	:	
KATHY BOOCKVAR, in her capacity as Secretary of the Commonwealth of Pennsylvania, <i>et al.</i> ,	:	
	:	
Defendants.	:	
	:	

**MOTION TO DISMISS AMENDED COMPLAINT OF ALLEGHENY
COUNTY BOARD OF ELECTIONS, CHESTER COUNTY BOARD OF
ELECTIONS, MONTGOMERY COUNTY BOARD OF ELECTIONS, AND
PHILADELPHIA COUNTY BOARD OF ELECTIONS OR, IN THE
ALTERNATIVE, TO DISMISS PENDING STATE-COURT RESOLUTION
OF STATE-LAW QUESTIONS**

In light of the Court’s ruling that previously filed motions to dismiss are moot due to the filing of the Plaintiffs’ Amended Complaint, the Boards of Elections of Allegheny, Chester, Philadelphia, and Montgomery Counties (“County Boards”) confirm that their previously filed Motion to Dismiss (ECF No. 94) and Reply Brief in support (ECF No. 139) should be treated as a motion to dismiss Plaintiffs’ Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). For the reasons set out in those briefs, the Amended Complaint should be dismissed with prejudice.

The County Boards’ Reply Brief in Support of their Motion to Dismiss requested that the Court “apply the pending Motion to Dismiss to the deficient claims in the Amended Complaint.” (ECF No. 139 at 5.) “This is a sound approach that promotes judicial economy by obviating the need for multiple rounds of briefing addressing complaints that are legally insufficient.” *Pettaway v. Nat’l Recovery Sols., LLC*, 955 F.3d 299, 303-04 (2d Cir. 2020). Accordingly, the County Boards respectfully request dismissal of Plaintiffs’ Amended Complaint for the reasons set forth in their Brief and Reply Brief in Support of the Motion to Dismiss (ECF No. 94, 139): lack of standing, abstention, and failure to state a cognizable claim for relief. The County Boards do not intend to file a new memorandum of law, but hereby incorporate the arguments in their previous memoranda.

Because the issues and claims underlying Plaintiffs' emergency lawsuit have been fully briefed—including the due process claim that Plaintiffs “mistakenly” deleted from their Amended Complaint—the County Boards request prompt dismissal of this lawsuit with prejudice. Pursuant to Local Rule 7.1, a proposed order is also attached.

Dated: November 18, 2020

Respectfully submitted,

HANGLEY ARONCHICK SEGAL
PUDLIN & SCHILLER

By: /s/ Mark A. Aronchick
Mark A. Aronchick (I.D. No. 20261)
Michele D. Hangley (I.D. No. 82779)
Robert A. Wiygul (I.D. No. 310760)
John G. Coit (I.D. No. 324409)
Christina C. Matthias (I.D. No. 326864)
John B. Hill (I.D. No. 328340)
One Logan Square, 27th Floor
Philadelphia, PA 19103
Telephone: (215) 496-7050
Email: maronchick@hangley.com

Virginia Scott (I.D. No. 61647)
Allegheny County Law Department
445 Fort Pitt Commons, Suite 300
Pittsburgh, PA 15219
412-350-1120

*Counsel for Allegheny County Board
of Elections*

Joshua M. Stein (I.D. No. 90473)*
Montgomery County Solicitor
Montgomery County Solicitor's
Office
One Montgomery Plaza, Suite 800
P.O. Box 311
Norristown, PA 19404-0311
(610) 278-3033

*Counsel for Montgomery County
Board of Elections*

*Counsel for Allegheny County Board of
Elections, Chester County Board of
Elections, Montgomery County Board of
Elections, and Philadelphia County
Board of Elections*

CITY OF PHILADELPHIA LAW
DEPT.

Marcel S. Pratt, City Solicitor
(I.D. No. 307483)*
Benjamin H. Field, Divisional Deputy
City Solicitor* (I.D. No. 204569)
1515 Arch Street, 17th Floor
Philadelphia, PA 19102-1595
(215) 683-5444

*Counsel for Philadelphia County Board
of Elections*

*Motions for Special Admission
Forthcoming